IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No.34535 of 1998

Between:

V. Sayulu S/o. V. Mutyalu
C.No. 63079, TME, MID, IG, E.C.I.L., Hyderabad.

..... PETITIONER

AND

1 Electronic Corporation of India Limited, rep. by its Chairman and Managing Director, Moula Ali, Hyderabad.
2 The disciplinary Authority, Instruments Group, E.C.I.L. Moula Ali, Hyderabad.
3 Sri T. Suresh, Enquiry Officer & Manager, C.M.G., E.C.I.L., Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in initiating disciplinary proceedings against the petitioner in pursuance of charge sheet in proceedings No. ECIL, IG; MID;63079:0297 dated 17-5-1995 as illegal, arbitrary, unjust, void and contrary to Section 5 of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issuance of Community Certificate Act, 1993 and Rule 9 of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Issue of Community, Nativity and Date of Birth Certificates Rules, 1998 and consequently set aside the Charge Sheet dated 17-5-1995.

Counsel for the Petitioner : Mr. D.V.NAGARJUNA BABU

Counsel for the Respondents : Mr.P.NAGESWARA SREE &

D.SRINIVAS

The Court made the following :

-

-

-

ORAL JUDGMENT:

In this Writ Petition, the disciplinary proceedings initiated against the petitioner in pursuance of the charge sheet dated 17-5-1995 of the 2nd respondent are under challenge.

According to the petitioner, the impugned Proceedings were initiated contrary to Section 5 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Community Certificates Act,1993 (for short 'the Act') and Rule 9 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community, Nativity and Date of Birth Certificates Rules,1997. The charge was that he obtained employment against a Scheduled Tribe vacancy producing a false caste certificate that he belongs to ST 'Valmiki' community.

When the enquiry was conducted as to the social status of the petitioner in view of the complaints received from the Scheduled Caste and Scheduled Tribe Employees Association of ECIL, the revenue authorities reported that locally the matter was enquired into and the caste status of the petitioner was found to be not ST 'Valmiki' as claimed by him, but he belongs to BC 'Mandula' community. It is also brought to the notice of this Court that during the pendency of the writ petition, the social status of the petitioner was enquired into as per the provisions of the Act by the District Collector, Ranga Reddy, who gave a negative finding against the petitioner and the matter has been carried in appeal before the State Government. Since this happened at the time of recent Assembly elections, the concerned Minister, who supposed to take up the appeal, did not exercise his power; as such, the petitioner filed a writ petition being W.P.No.7859 of 2004 before this Court, which was disposed of on 26-4-2004 observing as under:

> "5. Accordingly, the first respondent is directed to pass appropriate orders on the stay petition filed along with the appeal within a period of eight weeks from the date of receipt of a copy of this order. Pending passing of the orders on the stay petition by the first respondent, there shall be interim suspension of the order of the second respondent."

Learned counsel for the petitioner asserts that the stay petition filed along with the appeal has not yet been taken up for disposal.

Be that as it may, the legal position being that unless and until an enquiry is conducted and concluded as per the provisions of the Act, the authorities ought not to have take up disciplinary proceedings against the petitioner. In view of this legal position, the respondents are directed not to proceed with the disciplinary proceedings initiated against the petitioner pursuant to charge sheet dated 17-5-1995 until the social (caste) status of the petitioner is decided as per the Act finally.

With the above direction, the writ petition is disposed of. No costs.

August 4, 2004

Prk

Sd/-

SPECIAL OFFICER.

// TRUE COPY //

SECTION OFFICER

To

1 Chairman and Managing Director, Electronic Corporation of India Limited, Moula Ali, Hyderabad.
2 The disciplinary Authority, Instruments Group, E.C.I.L. Moula Ali, Hyderabad.
3 Sri T. Suresh, Enquiry Officer & Manager, C.M.G., E.C.I.L., Hyderabad.

4. 2CD copies